

12

U.S. Department of Homeland Security  
Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE

425 Eye Street, N.W.  
BCIS, AAO, 20 Mass, 3/F  
Washington, D. C. 20536

File: LIN 03 013 54478

Office: Nebraska Service Center

Date:

JUL 03 2003

IN RE: Applicant:

Application:

Application for Travel Document Pursuant to Section 223  
of the Immigration and Nationality Act, 8 U.S.C. § 1203

ON BEHALF OF APPLICANT: SELF-REPRESENTED

**PUBLIC COPY**


INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

  
Robert P. Wismann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The applicant, a native of New Zealand, seeks to obtain a travel document (reentry permit) under section 223 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1203. The director denied the application after determining that the application was filed after the applicant had departed from the United States.

On appeal, the applicant indicates that she intends to return to the United States to reside permanently and to take up employment with the University of California at Berkeley in July 2003.

In pertinent part, section 223 of the Act provides that an alien lawfully admitted for permanent residence who intends to visit abroad and return to the United States to resume that status may make an application for a permit to reenter the United States. The regulation at 8 C.F.R. § 223.2(b)(1) allows for the approval of a reentry permit if the application (Form I-131) is filed by a person who is in the United States at the time of application, and is a lawful permanent resident or conditional permanent resident.

The record reflects that the application was postmarked from Japan on October 18, 2002. At that time, the applicant was not physically present in the United States. She states on appeal that she returned to the United States from December 22, 2002 through January 13, 2003 to pursue employment possibilities. Since the application was not properly filed until while the applicant was physically present in the United States, the application may not be approved. The appeal will, therefore, be dismissed.

It is noted that a lawful permanent resident who seeks to reenter after an absence from the United States of one year or more, and does not possess a reentry permit, should contact a United States consulate abroad for further information regarding possible options for return to the United States.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. § 1361. The applicant has not met that burden.

**ORDER:** The appeal is dismissed.